

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Application of:

Engstrom

Application No.: 10/551,254

Filed: 9/28/2005

Confirmation No.: 1806

For: A WIRELESS MOBILE PHONE
WITH AUTHENTICATION
MODE OF OPERATION
INCLUDING HEART BEAT
PROFILE BASED
AUTHENTICATION

Examiner: To be assigned

Group Art Unit: To be assigned

Customer No.: 25,943

MAIL STOP PCT
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 C.F.R. 1.182

To The Commissioner for Patents:

The above-referenced application was filed on September 25, 2005.

On May 22, 2006, a Notice of Missing Requirements was received by Applicant.

On June 21, 2006, Applicant filed a Response to Notice of Missing Requirements.

On April 6, 2007, in the course of a routine status check of PAIR it was learned that the Response to Notice of Missing Requirements was filed with a typographical error in the serial number which resulted in the responsive materials being filed in an incorrect matter, which has issued as a patent.

A copy of the Response to Notice of Missing Requirements is enclosed with this petition together with the Return Receipt Postcard stamped by the Office with the received date of June 26, 2006.

The true and correct Invention Title and the true and correct Confirmation Number were provided in the caption of the Response. In addition, the true and correct Application Number was referenced on the copy of the Notice of Missing Requirements transmitted with the Response.

Applicant herewith petitions the Office to move the Response to Notice of Missing Requirements; Combined Declaration and Power of Attorney identifying the application by the international application number and international filing date; and copy of the Notice of Missing Requirements to the correct application file, namely, 10/551,254.

The surcharge for late submission of the Oath or Declaration having previously been paid by check 13983 in the amount of \$130 submitted with the Response to Notice of Missing Requirements, the Office is hereby authorized to debit the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393 in the amount of \$400 in satisfaction of the Petition Fee outlined in 37 CFR 1.17(f).

The Commissioner is authorized to charge shortages and credit overpayments to the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,
SCHWABE, WILLIAMSON & WYATT, P.C.

Date: April 10, 2007

by: /Al AuYeung/
Al AuYeung
Reg. No.: 35,432

Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suites 1600-1900
1211 SW Fifth Avenue
Portland, Oregon 97222
Telephone: 503-222-9981

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Application of:

Engstrom

Application No.: 10/881,254

Filed: 9/28/2005

Confirmation No.: 1806

For: A WIRELESS MOBILE PHONE
WITH AUTHENTICATION
MODE OF OPERATION
INCLUDING HEART BEAT
PROFILE BASED
AUTHENTICATION

Examiner: To be assigned

Group Art Unit: To be assigned

Customer No.: 25,943

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on this date: June 21, 2006

Typed or Printed: Yvette L. Christensen

Signature: 

MAIL STOP PCT
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

**RESPONSE TO NOTICE OF MISSING
REQUIREMENTS UNDER 35 U.S.C. 372 IN THE UNITED STATES
DESIGNATED/ELECTED OFFICE (DO/EO/US)**

To The Commissioner for Patents:

Enclosed for filing in the above-reference reissue application in response to the Notice of Missing Requirements dated May 12, 2006, are the following:

- 1) Combined Declaration and Power of Attorney identifying the application by the international application number and international filing date;
- 2) A copy of the Notice of Missing Requirements; and
- 5) A check in the amount of \$130 in payment of surcharge as set forth in 37 CFR 1.492(h).

The Commissioner is authorized to charge shortages and credit overpayments to the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393. A Fee Transmittal is enclosed in duplicate for fee processing purposes.

Respectfully submitted,
SCHWABE, WILLIAMSON & WYATT, P.C.

Date: June 21, 2006

by: 

Al AuYeung
Reg. No.: 35,432

Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suites 1600-1900
1211 SW Fifth Avenue
Portland, Oregon 97222
Telephone: 503-222-9981

COMBINED DECLARATION AND POWER OF ATTORNEY FOR A PATENT APPLICATION

INVENTORSHIP IDENTIFICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below, next to my name.

I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

TITLE OF INVENTION

***A WIRELESS MOBILE PHONE WITH AUTHENTICATION MODE OF OPERATION
INCLUDING HEART BEAT PROFILE BASED AUTHENTICATION***

SPECIFICATION IDENTIFICATION

the specification of which

_____ is attached hereto.
X was filed on March 30, 2004 as
United States Application _____
or PCT International Application Number PCT/US2004/010051
and was amended on _____
(if applicable)

ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment referred to above.

I acknowledge the duty to disclose all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

PRIORITY CLAIM (35 U.S.C. § 119(a)-(d) or (f), or 365(b))

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below

and have also identified below any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed:

<u>Prior Foreign Application(s)</u>			<u>Priority Claimed</u>	
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No
_____	_____	_____	_____	_____
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No
_____	_____	_____	_____	_____
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No
_____	_____	_____	_____	_____

POWER OF ATTORNEY

I hereby appoint the Practitioners at Customer No. 000025943 as my patent attorney(s)/agent(s); with full power of substitution and revocation, to prosecute this application identified above, and to transact all business in the U.S. Patent and Trademark Office connected herewith.

Send all correspondence and direct telephone calls to: Customer No. 000025943.

DECLARATION

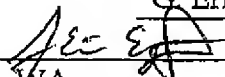
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Sole/First

Inventor:

G. Eric Engstrom

Inventor's Signature:



Date: 20-JUN-06

Residence: Kirkland, WA

(City, State)

Citizenship: USA

(Country)

Post Office Address: 12415 Holmes Pt. Dr. NE

Kirkland, WA 98033

Title 37, Code of Federal Regulations, Section 1.56 Duty to Disclose Information Material to Patentability

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) Prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a *prima facie* case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A *prima facie* case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application;

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

(e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/551,254	G Eric Engstrom	109909-137147

INTERNATIONAL APPLICATION NO.

PCT/US04/10051

I.A. FILING DATE	PRIORITY DATE
03/30/2004	03/31/2003

25943

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

CONFIRMATION NO. 1806

371 FORMALITIES LETTER



OC000000018771973

Date Mailed: 05/12/2006

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 09/28/2005
- Copy of the International Search Report filed on 09/28/2005
- Preliminary Amendments filed on 09/28/2005
- Information Disclosure Statements filed on 02/23/2006
- Request for Immediate Examination filed on 09/28/2005
- U.S. Basic National Fees filed on 09/28/2005
- Priority Documents filed on 09/28/2005

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the Inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fees required for this application is \$130 for a Large Entity:

- \$130 Surcharge.

RECEIVED

MAY 19 2006

Schwabe, Williamson & Wyatt

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

LAMONT M HUNTER

Telephone: (703) 308-9140 EXT 201

PART 1 - ATTORNEY/APPLICANT COPY

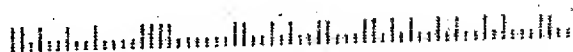
U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/551,254	PCT/US04/10051	109909-137147



YVETTE L. CHRISCADEN
SCHWABE, WILLIAMSON & WYATT, P.C.
U.S. BANK CENTRE
1420 FIFTH AVENUE, SUITE 3010
SEATTLE, WA 98101-2393

RECEIVED
JUL 5 2006
Schwabe, Williamson & Wyatt

CO1A



Attorney's Docket No.: 109909-137147 Initials: ATA/ylc/cch
Application No.: 10/881,254 Filing Date: 9/28/2005
Title: A WIRELESS MOBILE PHONE WITH AUTHENTICATION MODE OF OPERATION INCLUDING HEART
BEAT PROFILE BASED AUTHENTICATION
Client: WildSeed Ltd. Inventor(s): Engstrom
Date Mailed: 6/21/2006 Docket Date: 7/12/2006

The following items have been received in the U.S. Patent & Trademark Office on the date stamped hereon:

<input type="checkbox"/> Amendment/Response (___ pgs.)	<input type="checkbox"/> Info. Disc. Stmt. & List of Reference(s) (___ pgs.)
<input type="checkbox"/> Amendment/Response After Final (___ pgs.)	<input type="checkbox"/> Issue Fee Transmittal (___ pg. - in duplicate)
<input type="checkbox"/> Appeal Brief & two copies (___ pgs. each)	<input type="checkbox"/> Notice of Appeal (___ pgs.)
<input type="checkbox"/> Application (___ pgs.)	<input type="checkbox"/> Petition for Extension of Time: ___ mos. (___ pgs.)
<input type="checkbox"/> Assignment and Cover Sheet (___ pgs.)	<input type="checkbox"/> Preliminary Amendment (___ pgs.)
<input checked="" type="checkbox"/> Certificate of Mailing	<input type="checkbox"/> Reply Brief (___ pgs.)
Check No.: 13983 Amount: 130	<input type="checkbox"/> Request & Certification Under 35 U.S.C. 122(b)(2)(B)(7) (___ pg.)
<input type="checkbox"/> Check No.: Amount:	<input checked="" type="checkbox"/> Response to Notice of Missing Requirements (___ pgs.)
<input checked="" type="checkbox"/> Declaration/POA (___ pgs.)	<input checked="" type="checkbox"/> Return Receipt Postcard
<input type="checkbox"/> Disc. Docs. & Invs' Signed Ltr. (___ pgs.)	<input type="checkbox"/> Small Entity Status Claimed
<input type="checkbox"/> Drawings: ___ Sheets	<input type="checkbox"/> Status Inquiry (___ pgs.)
<input type="checkbox"/> Express Mail Label No.:	<input type="checkbox"/> Supplemental Amendment (___ pgs.)
<input checked="" type="checkbox"/> Fee Transmittal (___ pg. - in duplicate)	<input checked="" type="checkbox"/> Transmittal Letter (___ pg.)
<input checked="" type="checkbox"/> Other: Copy - Notice of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (2 pgs.)	

IPG No. P061

RECEIVED PTO/PTO 26 JUN 2006